5/28/94

Dear Bill,

Sorry I did not get around to mailing my 5/21. Explained in my enclosed to Roger Feinman.

Roger had just received their reply brief. I do not know the form or how styled. He said all they said about me was a snide comment in a footnote. My hunch is that they'd have been better off not to say a word about me because if the judge reads that affidavit and their attempt to pass it off they will look even worse.

They made it relevant by giving the judge a copy of Posner's book and a fat file of laudatory comments on it

Believing their own lies/propaganda was a big RH mistake that I think cannot be attributed to their lawyers, who had no reason not to believe what RH said and gave them. I say this for reasons not coming from the law but because they made it a serious concern for themselves and that from dishonesty. I explain.

I do not know the meaning of the many interpretations of the NY law Roger invoked but from the RH brief there is a persuasive case that the RH ad in the NY Times is xxx within some of them and thus is not within the law as a violation of it. If this is the case then the judge may well find for them. However-

- If he does that and dismisses the case there is no restriction on my affidavit as there will be with an out-of-court settlement under which the judge could seal the case record.

That would mean that there is no restriction on use of my affidavit with its unanswerable and unanswered exposure of Posner and RH and their book that is being reprinted this September by a Doubleday subsidiary. So, aside from the exposure of RH, Posner and their fake book there could be grounds for Anchor backing out on the reprint deal.

So, I think that unless they are too uptight about it, RH may well offer to settle before the judge rules on their motion to dismiss.

I have no interest in the good this will do Groden, who deserves nothing good.

But for Roger, that will be a big thing, beating RH and the Times and their most prestidgious counsel. They got the best on first-amendment law and that is what they argue.

D'ya think, podnah, that the big-city slickers will ever understand ol' country boys?

Harold